Supreme Court, U.S.
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(3)

No. 01-1684

IN THE

SUPREME COURT OF THE UNITED STATES

CRISANTO MENDONCA
Petitioner

v.

JOSEPH MEDEIROS Et Al;
Respondents

On Petition For Writ of Certiorari To the United States Court of Appeals for the First Circuit

REPLY TO BRIEF IN OPPOSITION

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12 Pages

QUESTION(S) PRESENTED

I. Whether First Circuit Local Rule 27(c) violates substantial due process and is therefore unconstitutional.

II. Whether applied in this case First Circuit Local Rule 27(c) is unconstitutional.

III. Whether interpreted by the U. S. Court of Appeals for the First Circuit Local Rule 27(c) is really a conclusive presumption, and thus, violates due process.

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I. THE UNITED STATES SUPREME COURT HAS JURISDICTION.

28 U. S. C. §1257 states in pertinent parts (a) final judgments or decree rendered by the highest Court in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any states is drawn in question on the grounds of it being repugnant to the constitution, treaties, or laws of the United States.....

This case involves the validity of a statute under First Circuit Local Rule 27(c) on the grounds conflicting with Federal Rule of Appellate Procedure Rule 27(C)(iii). Petitioner asserts that the First Circuit Local Rule 27(c) is unconstitutional in general as it applies in this case.

The issue first raised by the petitioner former att rney Mr. Andrew Fischer did not justify the rebuttal witness the existence discovered medical record physical evidence damages caused from the impact from the motor vehicle accident genuine issue of materials fact recognized by the State Superior Court trial by questioning Mr. Fischer at the time of the trial proceeding he stated no, before the State Superior Court trial's decision deal with dispute of irrelevant exhibits that was presented without issues the rule of laws, and regulations, the jury verdict finding fact respondent negligent, and excusable neglect.

Petitioner filed request notice to appeal late. State Superior Court trial order allowed the petitioner notice to appeal late. Respondent's attorney filed a motion to strike the petitioner notice to appeal late for reconsideration. State Superior Court trial order denied respondent attorney's motion. Respondent's attorney file a notice to appeal the State Superior Court trial order for denied his motion. It later State Appellate Court a proposed opinion affirmed State Superior Court trial's decision and order allowed notice to appeal late

affirmed, did not effecting the issues. Petitioner filed a petition for rehearing. Petition was denied by the State Appellate Court, did not effecting the issues. Petitioner filed an application for further appellate review. Application was denied by the State Supreme Judicial Court, did not effecting the issues. Petitioner filed a complaint with the rebuttal witness existence discovered medical record physical evidence damages caused from the impact from the motor vehicle accident genuine issue of materials fact to justify the jury verdict finding fact respondent negligent on question number 1 for product liability, respondent attorney filed a motion with a proposed statutes request to dismiss the petitioner's case, the U. S. District Court trial endorsed order granting.

Petitioner appeal the endorsed order of the U. S. District Court trial. It later the U. S. Court of Appeals for the First Circuit a proposed opinion affirmed. Petitioner filed petition for rehearing. Petition was denied, did not effecting the issues. Petitioner filed with this Court a first petition for writ of certiorari base on the order denied a petition for rehearing by the U. S. Court of Appeals for the First Circuit, the petition was denied by this Court, did not effecting the issues. Petitioner filed a motion to reopen. U. S. Court of Appeals for the First Circuit order denied, did not effecting the issues.

Respondent's attorney claims that this Court is without jurisdiction of this petition to review the matters raised in this petition and object to the petition for a writ of certiorari, respondent's attorney object does not go to jurisdiction. This Court has jurisdiction under 28 U. S. C. § 1257 because petitioner exhausted his State Court remedies on the issues raised by this petition which is a questions of the rule of law.

THE STATE SUPERIOR COURT TRIAL'S DECISION IS APPLICABLE TO THIS CASE

State Superior Court trial's decision stated obviously that the Court will not issues any directed verdict. State Superior Court trial did not instructing the jurors any rule of the laws and regulations on the merits of issue for the jury verdict excusable neglect. (see) Appendix (C) transcript of the State Superior Court trial dated July 30, 1997 (pg. 4-83) on (pg. 16, and 17). Jury verdict excusable neglect conflicting with Superior Court trial's decision. (see) Appendix (D) dated July 30, 1997, on question number 1, and number 2.

Jury verdict finding fact respondent negligent on question number 1 due to the motor vehicle accident there is the petitioner rebuttal witness existence discovered medical record physical evidence damages caused from the impact genuine issue of materials fact relevant pursuant to F. R. C. P. Rule 56 (b) from Spaulding Rehabilitation Hospital signed by Doctor Elaine Woo on 5 / 24 / 95, Social Security Administration Office of Hearings, and Appeals signed by Administrative Law Judge Carol A. Sox on April 24, 1996, and Massachusetts General Hospital signed by Doctor Robert Lager on April 21, 1998, upon to the fact which is in U. S. Court of Appeals for the First Circuit, and U. S. District Court trial in Boston Massachusetts.

There is no credibility of the evidence records in the lower Court and Appellate Court to justify respondent attorney's Motion with a proposed statutes pursuant to F. R. C. P. Rule 12(b) (1, 12 (b) (2) and F. R. C. P. Rule 12 (c) request to dismiss the petitioner's case endorsed order granting by the U. S District Court trial (see) Appendix (B) U. S. District Court trial docket entry on line dated 7 / 9 / 99 (pg. 15).

FIRST CIRCUIT LOCAL RULE 27(c) CONFLICTING WITH FEDERAL RULE OF APPELLATE PROCEDURE RULE 27(C)(iii).

First Circuit Local Rule 27(c) at any time, on such notice as the Court may order, on motion of appellee or sua sponte, the Court may dismiss the appeal or other request for relief or affirm and enforce the judgment or order below if the Court lacks jurisdiction, or if it shall clearly appear that no substantial question is presented. In case of obvious error the Court may similarly, reverse. Motions for such relief should be promptly filed when the occasion appears, and must be accompanied by four copies of a memorandum or brief.

Federal Rule of Appellate Procedure Rule 27 Motions (C) Documents barred or not required. (iii) A proposed order is not required.

CONCLUSION

Petitioner respectfully request this Honorable Court to granted writ of certiorari to review the issues in this case.

Respectfully Submitted,

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